

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

REINHART BOERNER VAN DUREN S.C.,

Third-Party Plaintiff,

and

CHICAGO TITLE INSURANCE COMPANY

Case No. 10-C-753

Cross-Claimant,

-VS-

CARL JOHAN FREER,

Third-Party Defendant/Cross-Claim Defendant.

DECISION AND ORDER

Counsel for Third-Party Defendant/Cross-Claim Defendant Carl Johan Freer (“Freer”) filed a second Civil Local Rule 7(h) motion to withdraw as counsel for Freer. (ECF No. 198.) The retainer agreement between Freer and the law firm allows counsel to withdraw for non-payment of fees. (McGarry Decl. Withdraw, ¶ 3.) (ECF No. 199.) Counsel avers that Freer, who was out of the country on December 23, 2013, when the motion was filed, is “seriously delinquent” in the payment of fees for counsel’s services, and they have not been able to reach acceptable terms for payment. (*Id.* at ¶¶ 4 & 6.) The motion was to be emailed to Freer at his last known email address. (*Id.* at ¶ 6.) On January 9, 2014, the Court issued an Order requesting that counsel provide additional information regarding the motion to withdraw. (ECF No. 200.)

Based on the additional information in the supplemental declaration of counsel

(ECF No. 204), the Court concludes that Freer should have received the motion to withdraw and that counsel has discussed with Freer the risks of the firm's withdrawal. The McGarry supplemental declaration also establishes that he has advised Attorney Allen Z. Sussman ("Sussman"), a Los Angeles, California attorney identified by Freer as his ongoing business transactional counsel, regarding the delinquent payment of the firm's fees, the status of the litigation, and the motion for withdrawal. Furthermore, counsel has provided Sussman with copies of his communications to Freer advising him of the Court's letter (ECF No. 197) and the consequences of Freer's failure to defend those claims. Based on the foregoing, the Court grants counsel's motion to withdraw, given Freer's failure to fulfill his obligation to pay for the services provided by counsel. *See* Wis. SCR 20:1.16(b)(5).

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

The second Civil Local Rule 7(h) motion to withdraw as counsel for Freer. (ECF No. 198) is **GRANTED**; and,

The Clerk of Court is **DIRECTED** to send a courtesy copy of this Decision and Order to Freer at his last known email address: cjf@aluminaid.com.

Dated at Milwaukee, Wisconsin, this 25th day of April, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge